REMARKS

Claims 1-4 are now pending in the application. Claims 5 and 6 stand withdrawn.

The drawings were objected to in the Office Action under 37 CFR 1.83(a) as not showing every aspect of the claimed invention, in particular for not showing the recitation in claim 1 of "a base". Applicants have amended claim 1 to refer to an "undercarriage" as described in the specification and drawings, for example as the undercarriage 11 shown in Fig. 5 and discussed on page 11 of the specification.

In the Office Action, claims 2-4 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants have amended claims 2 and 4 to more clearly define the invention. Claims 2-4 are now respectfully submitted to be definite.

Claims 1-4 were rejected in the Office Action under 35 U.S.C. 102(b) as being anticipated by Yamamoto et al. (JP 0926800A). Applicants respectfully traverse the rejection.

Claim 1 recites a swing mechanism for a construction machine, that includes "a pin fit-in hole portion through which said pin fit-in hole is formed is arranged on said swing frame at a location in a vicinity of a place of meshing engagement between said pinion and said internal gear such that said pin fit-in

hole portion extends toward said pinion insertion hole, and said pin fit-in hole is located on or in a vicinity of a line that extends through a center of rotation of said outer race and a center of rotation of said pinion."

As described more fully in the specification, for example on page 20, the present claimed invention is a swing mechanism for a construction machine that makes it possible not only to optimally arrange the center-frame-positioning knock pin 6, but also to perform smoothly the assembly of the pinion drive mechanism 5. The swing mechanism for the construction machine enables the optimal arrangement of the center-frame-positioning knock pin 6 so that the backlash between the internal gear of the inner race 1a and the swing circle-driving pinion 4 can be reduced to a minimum. For example, the claimed pin fit-in hole portion 20, shown most clearly in Figs. 1 and 2, is used to obtain this advantage of the present invention.

In contrast, the machine described in Yamamoto et al. is an hydraulic excavator having a conventional configuration of the inner and outer races, and of the pinion. As shown for example in Figs. 4 and 7-9, there is no description or suggestion in Yamamoto et al. of a pin fit-in hole portion as claimed. Accordingly, the device described in the reference would not be able to obtain the advantages of the claimed invention.

Accordingly, applicants respectfully submit that claim 1 is not anticipated by the cited reference, and is allowable. Claims 2-4 depend from an allowable claim, and at least for that reason are also submitted to be allowable.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #080306.56872US).

Respectfully submitted,

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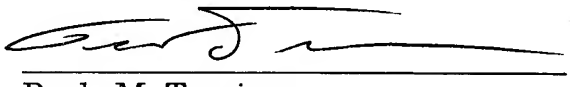

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